

INTERNAL OPERATING PROCEDURES

I. CREATION

The North Carolina Board of Ethics ("Board") was reauthorized by Governor Michael F. Easley through Executive Order Number One ("the Order") on January 12, 2001. Among other things, the Board was directed to develop operating procedures necessary to accomplish the purposes of the Order.

II. BOARD ORGANIZATION AND ADMINISTRATION

(A) *The Board:*

- (1) The Board of Ethics consists of seven (7) members appointed by the Governor. They serve four (4) year terms and cannot be removed from the Board absent misfeasance, malfeasance, or nonfeasance as determined by the Governor. The Chair is designated by the Governor. The Vice Chair is elected by the Board.
- (2) Membership on the Board is not considered a public office for the purposes of any prohibition against dual office holding.
- (3) Members of the Board receive no compensation but shall be reimbursed for expenses as provided by North Carolina General Statutes ("N.C.G.S.") §§138-5 and -6.
- (4) For administrative purposes only, the Board and staff are considered a part of the North Carolina Department of Administration.

(B) *Staff:*

Subject to budget constraints, the Board shall have a minimum staff of three, headed by an Executive Director who shall be an attorney licensed to practice law in the State of North Carolina. All staff hiring is subject to N.C.G.S. §126-14.3.

(C) *Board Offices & Contact Information (subject to change at any time):*

Offices of the Board and staff are currently located on the second floor of the Department of Administration Building, 116 West Jones Street, Raleigh, N.C. 27603.

The mailing address is 1324 Mail Service Center, Raleigh, N.C. 27699-1324.

The general office telephone number is (919) 733-2780.

The facsimile number is (919) 733-2785.

Office hours are generally 8:00 A.M. to 5:00 P.M.

The Board's e-mail address is nc.boardofethics@ncmail.net.

(D) *Board Meetings:*

- (1) The Board shall meet as often as it deems necessary to carry out its duties under the Order. A meeting may be called by the Chair or by a majority of its members upon request to the Chair or person acting in his or her stead. The Chair shall choose the location of all Board meetings, taking into consideration the convenience of all Board members.
- (2) Board meetings shall be conducted in accordance with the North Carolina Open Meetings Law, N.C.G.S. §143-318.1, *et seq.*
- (3) Each meeting should begin with a statement from the Chair that reminds the members of their duty to avoid conflicts of interest and appearances of conflict. The Chair also shall inquire as to whether there is any known conflict of interest or appearance of conflict with respect to any matters before the Board.
- (4) Should any member have a known conflict of interest or appearance of conflict with respect to any matters before the Board, that member should state the conflict and/or appearance of conflict and refrain from participation, as proscribed in item 6 below.

(E) *Board Action:*

The Board acts by a majority of members present at a meeting at which there is a quorum. A quorum consists of four (4) members of the Board. Board action may also be taken by a majority of members by telephone conference, or other means of communication as determined by the Chair in his or her discretion, with appropriate public notice pursuant to N.C.G.S. §143-318.9, *et seq.* A Board member may vote by written proxy given to another Board member, with prior notice and a copy given to the Chair or other presiding officer. The proxy shall specify the member's vote on a particular question.

(F) *Disqualification from Participation:*

A member of the Board and staff members shall not participate in consideration of any matter involving a person subject to the Board's jurisdiction if:

- (1) The Board member or staff member is a business associate or former business associate of the person; or
- (2) The Board member or staff member has had or expects to have significant financial or business dealings with the person while the person is in state service; or
- (3) The member, Chair, or other presiding officer considers it improper for any other reason; or
- (4) The participation would constitute an actual conflict of interest or create a reasonable appearance of conflict under Section 7 of the Order.

(G) *Meeting Minutes:*

- (1) The Research Assistant or another staff member designated by the Executive Director shall keep minutes of each Board meeting.
- (2) The minutes of the Board shall be available for public inspection at the Board's offices during regular office hours, except as otherwise provided in N.C.G.S. §143-318.9, *et seq.*

III. POWERS AND DUTIES OF THE BOARD

The Board shall have those powers and duties set out in the Order, specifically including, without limitation, those specified in Section 5.

IV. PERSONS SUBJECT TO THE JURISDICTION OF THE BOARD

(A) The Board's jurisdiction is limited and is set out in sections Three and Four of the Order.

(B) *"Advisory" Boards:*

- (1) Members appointed by the Governor or other appointing authorities to boards¹ that are advisory in nature, as determined by the Board, are not subject to the Board's jurisdiction.
- (2) In deciding whether a board is "advisory" under the Order and these Procedures, the Board shall be governed by the particular statute, rule, order, or other document which creates such board and defines its powers and duties. In deciding whether a board is "advisory," the Board shall consider, without limitation, the following criteria. Boards are generally not solely advisory (and therefore covered by the Order) if they have the authority, power, or duty to:
 - (a) Allocate, spend, or invest public money in significant amounts; or
 - (b) Grant or revoke licenses; or
 - (c) Promulgate rules, regulations, or standards having the force of administrative law; or
 - (d) Enter into or approve contracts involving significant amounts of public money; or
 - (e) Set policy governing operation of an agency or institution.

The Board may consider such other factors and criteria as it deems necessary and appropriate.

- (3) The initial determination of whether a board is "advisory" shall be made by Board staff in accordance with these Procedures and the criteria set forth above. If requested by the

¹ The term "board" or "boards" includes boards, commissions, councils, committees, task forces, authorities, or similar public bodies, however denominated, located within the Executive branch of State government. Final determination of whether a board is "advisory" shall be made by the Board according to its standards and criteria.

interested or affected board, the Board Chair shall review staff's determination and, if agreed upon, such determination shall be final and binding on such board and the Public Officials covered thereby. Any board or Public Official may request that the full Board of Ethics review the initial determination, which review shall take place at a formal Board meeting as soon as reasonably possible. Until such time as the full Board can meet and finally resolve any coverage dispute or question, prospective Public Officials on the subject board shall comply with all applicable provisions of the Order and these Procedures.

V. COMPLAINTS

- (A) The Board may *not* investigate and shall *not* accept complaints filed against employees, appointees, or other persons who do not come under the Board's jurisdiction pursuant to the Order. **Nothing in these Procedures is intended, and shall not be construed, to give the Board of Ethics any independent civil, criminal, or administrative investigative or enforcement power or authority over Public Officials or other State employees or appointees.** The Board shall serve an investigatory and advisory role in dealing with complaints against covered Public Officials. Substantive enforcement is left to those appointing, hiring, or supervising covered Public Officials.
- (B) *Definitions:*
- (1) **Complaint:** A concise, written statement filed with the Board of Ethics alleging specific facts indicating a violation of the Order by a person subject to the Order, which contains all of the information required by and meets the conditions of section 5 (c) of the Order.
 - (2) **Complainant:** An identified person filing a valid, proper complaint according to the requirements set out in section 5 (c) of the Order.
 - (3) **Respondent:** A covered Public Official against whom a valid, proper complaint according to the requirements set out in section 5 (c) of the Order has been filed.
 - (4) **Proper officials:** The official responsible for employment or appointment of the respondent and the Governor, unless the respondent is an employee or appointee of one of the public officials mentioned in Section 4 of the Order, in which case the proper official shall be the head of that agency, board, department, or government body.
 - (5) **Board-initiated complaints:** A complaint resulting from a Board-initiated investigation pursuant to section 5 (c) (3) of the Order when a Board member has determined, in the member's discretion, that there is reason to believe that a Public Official has or may have violated the Order.

(C) *Form and Place of Filing:*

- (1) Any person may file a complaint with the Board regarding actions of a covered Public Official which constitute a violation of the Order. The Board shall not accept or act upon any anonymous complaint.
- (2) Complaints shall be submitted in writing to the Board offices and shall contain:
 - (a) The name, mailing address, telephone number, and signature of the complainant;
 - (b) The name and job title or appointive position of the respondent; and
 - (c) A concise statement of the nature of the complaint and specific facts indicating that a violation of the Order has occurred.

(D) *Time of Filing:*

Complaints filed against Public Officials pursuant to section 5 (c) (1) must be filed with the Board within ninety (90) days of when the complainant knew or should have known of the conduct complained of; provided, however, that there is no time limit for a Board-initiated investigation and complaint pursuant to section 5 (c) (3) of the Order.

(E) *Discretionary Rejection of a Complaint*

- (1) The Board may decline to accept or investigate any attempted complaint which does not contain any of the required information, or the Board may, at its sole option and discretion, request that additional information be provided by the complainant within a specified amount of time (such time to be not less than seven (7) business days), barring which the attempted complaint may be dismissed.
- (2) In addition, the Board may decline to accept or investigate a complaint if it determines that:
 - (a) the complaint is frivolous or brought in bad faith,
 - (b) the individuals and conduct complained of have already been the subject of a prior complaint, or
 - (c) the conduct complained of is primarily a matter more appropriately and adequately addressed and handled by other Federal, State, or Local agencies or authorities, including, but not limited to, law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed pursuant to this Section, the Board shall stay its complaint investigation pending final resolution of such other investigation.

(F) *Initial Review, Limited Investigation, & Pre-Conference Disposition*

- (1) Upon receipt of a complaint, the Executive Director shall promptly conduct an **initial review** of the same to determine the following:
 - (a) whether the complaint contains all of the relevant information required by section 5 (c) of the Order and section V of these Procedures, including, without limitation, a concise statement of the nature of the complaint and specific facts indicating that a violation of this Order has occurred;
 - (b) whether the person against whom the complaint has been filed is a covered “Public Official” subject to the Order;
 - (c) whether the complaint has been timely filed (within 90 days of when the complainant knew or should have known of the conduct complained of);
 - (d) whether a reasonable person would conclude that the specific facts alleged indicate a probable violation of the Order of the type and magnitude justifying a full investigation by the Board; and
 - (e) whether he or she believes that the Board should exercise its discretion and decline to accept or investigate the complaint for one or more of the reasons set out in section 5 (c) (2) of the Order, including that the complaint is frivolous or brought in bad faith or that another agency or authority is conducting an investigation of the same actions or conduct involved in the complaint.
- (2) If during the initial review, the Executive Director determines that the complaint **lacks any of the information required** by section 5 (c) of the Order and section V of these Procedures, the Executive Director may request that additional information be provided by the complainant within a specified reasonable amount of time, such time to be not less than seven (7) business days. If the complainant fails to provide such requested information in the time requested, the Executive Director shall report the same to the Chair, who may take or authorize such action as he or she deems appropriate, including dismissal of the attempted complaint.
- (3) If during the initial review, the Executive Director determines that additional information is needed to determine whether a reasonable person would conclude that the specific facts alleged indicate a probable violation of the Order of the type and magnitude justifying a full investigation by the Board, the Executive Director may conduct a **limited investigation** for that purpose. Such limited investigation may include, but is not limited to, requesting additional information from the parties or covered boards involved. If the parties fail to provide such requested information in the time requested, the Executive Director shall report the same to the Chair, who may take or authorize such action as he or she deems appropriate, including dismissal of the attempted complaint or the recommendation of appropriate sanctions against the respondent.

- (4) If after the initial review, the Executive Director determines that the complaint is against a person who is not a covered “Public Official” subject to the Order and the Board therefore lacks jurisdiction over that individual, the **Director** shall, after consultation with the Chair as necessary, notify the complainant and take no further action in the matter.
 - (5) Once the initial review has been completed, the Executive Director shall **report** his or her findings to the Chair and make appropriate recommendations concerning the same, including that a full investigation be conducted. If the Executive Director believes that the complaint has not been timely filed pursuant to section 5 (c) (1) of the Order, or that a reasonable person would conclude that the specific facts alleged, together with any relevant information acquired during the limited investigation, if any, do not indicate a probable violation of the Order of the type and magnitude justifying a full investigation by the Board, or that the Board should exercise its discretion and decline to accept or investigate the complaint for one or more of the reasons set out in section 5 (c) (2) of the Order, then the Executive Director shall report the same to the Chair and recommend appropriate action, including that no further investigation be conducted at that time.
 - (6) After consultation with the Executive Director as necessary or desired, the **Chair** shall (a) instruct the Executive Director to undertake a full investigation of the complaint pursuant to subsection V (G) below, or (b) recommend disposition of the complaint to the full Board, or (c) waive any recommendation and present the matter to the full Board for appropriate action under the Order and these Procedures. If the Chair does *not* instruct the Executive Director to undertake a full investigation, the full Board shall review the matter, including any recommended disposition, at its next regularly scheduled meeting or a meeting specially called for that purpose. The Board’s review of the Chair’s recommended disposition should generally be based on the written record and information provided by the Executive Director pursuant to his or her limited investigation, absent extenuating circumstances or a specific need for the parties to address the Board.
 - (7) After reviewing the Chair’s recommended disposition and any other relevant information provided or discovered during the limited investigation, if any, **the Board** shall either (a) resolve the complaint by taking any action it deems necessary or appropriate under the Order, and specifically section 8 thereof, or (b) direct the Executive Director to proceed with a full investigation as set forth below. If the Board recommends any sanction or punishment against the Respondent, the Respondent (but *not* the Complainant) may request a full investigation and conference with the Board as set forth below.
 - (8) The Executive Director shall promptly notify the Respondent and other Proper officials that a complaint has been filed.
 - (9) All complaints not disposed of as set forth above shall proceed to the investigation and final disposition stages described below.
- (G) *Full Investigation:*
- (1) If, after consultation as necessary with the Executive Director or other staff, the Chair determines that the complaint meets all requirements of the Order and these Procedures, he or she may instruct the Executive Director to undertake a full investigation. Such

investigation shall be given priority over other staff work and may involve, without limitation, one or more of the following:

- (a) A request for more information, including, without limitation, documentation or tangible evidence, from the complainant, the respondent, or the Agency or board with which the respondent Public Official is associated;
 - (b) A request, pursuant to applicable laws and other requirements, including N.C.G.S. §114-15.2 (use of private investigators limited), to obtain the assistance of a private investigator; provided, however, that no such request shall be made and no investigator hired or retained except at the Board's direction upon a majority vote in an official meeting;
 - (c) Such interviews with the complainant, respondent, other Proper officials, and anyone else the Executive Director deems necessary to gather the facts and information needed to investigate and resolve the complaint in a timely and complete manner.
- (2) Upon completion of the investigation, the Executive Director shall issue a **written report** to the Chair with copies to the complainant and respondent. Such report may include the material facts and other relevant information discovered during the investigation together with any issues or questions raised in the context of specific provisions of the Order.
- (3) The complainant and respondent shall be given an opportunity to submit **written responses** within a reasonable amount of time as determined by the Chair in his or her discretion (but such time to be not less than seven business days) to the Executive Director's investigation report. The Chair, in his or her sole discretion and through the Executive Director, may impose such other time and length (number of pages) requirements on such responses as he or she deems necessary under the circumstances. Nothing in these Rules shall be construed to *require* that the parties file such written responses, and if filed, they should be limited to material facts in dispute and relevant issues in the context of specific provisions of the Order.

(H) *Chair's Final Review and Notice of Informal Conference*

- (1) The Chair shall review the Executive Director's written report, together with the complainant and/or respondent's written responses, if any, and may request such additional information or further investigation as he or she deems necessary for a full and complete understanding of the matter. If he or she deems it necessary or helpful, the Chair may instruct the Executive Director to prepare a final **pre-conference report** for the full Board. Such pre-conference report may include, without limitation, a list of undisputed material facts and any open issues or questions to be addressed by the Board.
- (2) Once the Chair determines that sufficient information has been acquired, he or she shall schedule an informal conference between the full Board and the parties as soon as reasonably practicable. Such conference may, and preferably shall, be held in conjunction with the Board's regular periodic business meeting.
- (3) Reasonable notice of the time and place of the conference shall be provided to the complainant and respondent.

- (4) The complainant and respondent shall be allowed to attend any public portion of any complaint conference. In addition, the Board may *require* the complainant to attend. If the Board requires that the complainant attend and he or she does not, the Board may take such action as it deems appropriate under the circumstances, including dismissal of the complaint.

(I) *Board Review and Informal Conference*

- (1) The Board shall review the Executive Director' report(s), together with the complainant or respondent's written responses, if any, and may request such additional information or further investigation as it deems necessary under the circumstances. Once the Board has obtained sufficient information, in its sole discretion, to adequately and fairly resolve the complaint against the respondent, it shall have an **informal conference** with the respondent.
- (2) Such conference shall be informal. The Chair, Vice Chair in his or her absence, or other Board member designated by the Chair where necessary, shall moderate the conference. Board members and staff shall take the initiative in questioning the parties and any other persons who may be present in order to gather sufficient information and clarify relevant questions. The parties may be assisted by counsel if they so desire. However, there shall be no sworn testimony or right to cross-examine the parties or other persons in attendance.
- (3) Documents to be considered are to be provided to the Board through the Executive Director by the complainant and respondent at least 14 days in advance of the meeting, subject to modification by the Chair in his or her discretion. Each party shall provide the other with copies of any such documents at the same time they are provided to the Board.
- (4) All questioning of the parties and other persons in attendance shall take place in an open, public meeting in full accordance with the North Carolina "Open Meetings" law. To the extent allowed by section 143-318.11 on "closed sessions," including, but not limited to, the consideration of the competence, performance, and character of a respondent in his or her capacity as a Public Official, and subject to the advice of legal counsel, the Board *shall* go into closed session to deliberate the final outcome of the complaint. Any final action on the complaint, including, without limitation, the recommendation of any sanctions or other disciplinary action against a Public Official, shall take place in open session.

(J) *Final Report & Recommendation*

- (1) After the conference with the parties, and after obtaining any additional information it deems necessary, the Board shall make a final report to the proper officials, including the person responsible for appointing, hiring, or supervising the respondent. In addition, taking into consideration the factors listed in section 8 (c) of the Order, the Board may make such recommendations and/or warnings as it deems necessary or appropriate in accordance with the Order. The Board shall forward copies of the same to those persons listed in section 5 (c) (6) of the Order, including the complainant and the respondent.
- (2) As it deems necessary and proper, the Board may make referrals to appropriate State officials, including law enforcement officials, for investigation of possible wrongful conduct by State employees or appointees, regardless of whether the individual is a Public Official

under this Order, which is discovered during the course of a complaint investigation. **Nothing in this provision is intended, and shall not be construed, to give the Board of Ethics any independent civil, criminal, or administrative investigative or enforcement power or authority over Public Officials or other State employees or appointees.**

- (3) If the Board determines, in its sole discretion, that it is necessary or advisable to enhance compliance with this Order and raise the level of ethical awareness in public service, the Board may publish (either in complete or summary form) its findings and recommendations made pursuant to third-party or Board-initiated complaint investigations.

VI. ADVISORY OPINIONS

(A) *Definition and Scope*

An advisory opinion is a means by which the Board can provide written guidance and advice concerning prospective ethical conduct, answer questions about the meaning and application of the Order, and otherwise assist Public Officials in the conduct of their official duties. Advisory opinions have prospective application only – they are intended to address **future** conduct, decisions, or actions. They are *not* intended to and may not serve as a substitute complaint against a Public Official for past conduct. They are intended to deal with actual, not hypothetical or conjectural, situations involving individuals currently subject to the Order.

- (1) Advisory Opinions will not be issued to Public Officials with respect to changes in their financial, familial, or personal status under the Order. Such changes will be evaluated and responded to as a supplemental evaluation of the Statement of Economic Interest on file with the Board.
- (2) The Board may decline to issue an advisory opinion if the subject is covered by other laws, policies, rules or regulations, including policies or rules promulgated by the State Personnel Office and/or individual State departments or agencies.

(B) *Submission of Requests*

- (1) Advisory opinions may be requested by (i) any Public Official (as that term is defined in section 3 of the Order), (ii) any individual not otherwise a Public Official who is responsible for the supervision or appointment of someone who is a Public Official, (iii) Agency heads (which term includes the chair of each covered board), and (iv) legal counsel for covered Agencies or boards. In addition, the Board may issue an Advisory Opinion upon its own initiative.
- (2) Requests for Advisory Opinions shall be submitted **in writing** to the Chair or the Executive Director and shall include the following information:
 - (a) The name, job title, mailing address, and telephone number of the person submitting the request;

- (b) Identification of the section of the Order, rules, procedure, or form to which the request relates, if known; and
- (c) A concise statement of the question or circumstances to be considered by the Board.

(C) *Disposition of Requests*

- (1) As soon as reasonably practicable given the demands of other staff work, including but not limited to any pending complaint investigations, the Executive Director shall prepare a ***preliminary advisory opinion*** for review by the Chair. After such review by the Chair as he or she deems necessary under the circumstances, the Executive Director shall issue the preliminary advisory opinion which may be relied upon by the subject Public Official and/or his or her Agency or board pending formal review, approval, or modification by the full Board of Ethics. In the event the Chair is unavailable or unable to review the proposed preliminary advisory opinion with the Executive Director, such function shall be performed by the Vice Chair. In the event that both the Chair and Vice Chair are unavailable or unable to perform this function, the Director may consult with any Board member in order to comply with the intent of this provision.
- (2) As an alternative to preparation of a preliminary advisory opinion pursuant to subsection (C) (1) above, the Executive Director may, after consultation with the Chair as necessary, present the relevant question(s) or issue(s) to the full Board for disposition at its next general business meeting or a meeting called specifically for that purpose.
- (3) It is contemplated that presentation of the preliminary advisory opinion to the full Board for formal approval, modification, or other disposition will take place at the Board's next regularly scheduled business meeting. In addition, the Board contemplates that it may from time to time meet by teleconference or other electronic means (in compliance with all applicable provisions of the Open Meetings Law) in order to address advisory opinion requests.
- (4) Taking into consideration the overall goal of providing as much assistance to covered Public Officials as reasonably possible, the Board shall have discretion to decline to issue an opinion for any reason, including if it determines that the request is frivolous, if the matter has already been considered and decided by the Board, or if it is the Board's opinion that the matter is not one with respect to which a ruling or determination would be desirable or appropriate. This initial determination shall be made by the Chair, or Vice Chair if necessary, in consultation with the Executive Director, subject to review by the full Board at its next regular business meeting.
- (5) If the Board declines to issue an advisory opinion, it shall notify the person submitting the request in writing and give the reasons for the Board's action. All formal advisory opinions shall be in writing and may consist of the preliminary advisory opinion duly approved and adopted by the Board pursuant to these rules. The Executive Director or staff shall notify the person submitting the request of the Board's final opinion as soon as reasonably practicable under the circumstances.

VII. STATEMENTS OF ECONOMIC INTEREST

(A) *Scope and Intent*

Submission, review, and evaluation of the Statements of Economic Interest (“Statement” or “SEI”) and/or any other conflict of interest disclosure form(s) pursuant to the Order is intended to assist Public Officials, the Agencies in which they work or boards on which they serve, their appointing authorities, the Board, and the public identify those situations where an actual or potential conflict of interest between the Official’s private interest and public duty might exist. Once identified, it is intended and hoped that such Public Officials will take appropriate action to prevent or address such actual or potential conflicts, and also to be sensitive to situations where an appearance of conflict of interest might exist. Statements shall include the information required by Section 9 of Executive Order Number One.

(B) *Filing Deadlines & Updates*

(1) New Employees or Appointees

All new employees or appointees who are covered by the Order must file their Statements ***as soon as reasonably possible***, the intent being to have a conflict of interest evaluation prior to or contemporaneous with the commencement of public service where at all feasible.

(2) Currently Serving Public Officials

As of January 12, 2001, all currently serving Public Officials who were required to file a Statement under former Executive Order 127, as amended, were required to submit a ***new*** Statement in accordance with Executive Order Number One on or before *May 15, 2001*.

Persons subject to the Order whose compensation from the state increases to an amount in excess of \$40,000 on or after July 1 shall **not** be required to file the statement until the next filing period.

(3) Annual Updates

Once a Public Official has timely filed all required Statements under section 9 of the Order, he or she must update the Statement annually between **April 15 and May 15** (“the annual filing period”). He or she may do this in several ways, including (1) by submitting a **new, complete Statement** with all information provided and all questions answered, (2) by submitting a **“Supplemental Statement”** on a form provided by Board staff, (3) by submitting a **“No-Change” form** indicating no material changes from the previous year’s filing, or (4) by submitting such other documentation or information requested or approved by staff on a case-by-case basis. Even though the official annual filing period does not begin until April 15, Public Officials may file, and Board staff shall accept, Statements filed after January 1 of the filing year *provided* that the financial and other information is current and timely and will not materially change between the time of filing and the annual filing period (April 15 to May 15). The intent of this provision is that Public Officials provide information that is as current, timely, and relevant as possible under the circumstances,

taking into consideration the fluidity of everyone's personal, financial, and even familial situation.

(4) Periodic Updates or Supplemental Statements

Once timely and properly filed for the reporting year, Public Officials are generally **not** required to file an updated or supplemental Statement prior to the next annual filing period unless specifically requested to do so by the Board or unless the Order is modified to require a new filing. Provided, however, that if there are significant, material, and relevant changes to the Official's personal, familial, or financial situation which would render the current Statement not only technically obsolete but also misleading and incorrect from a conflict of interest standpoint, the Official should carefully consider filing a supplemental Statement with the Board. Public Officials should consult with Board staff if they have any doubt about whether it would be necessary or advisable to file a supplemental Statement. Typical fluctuations in the value of financial holdings or portfolios during the course of a year would *not* normally require the filing of a supplemental Statement.

An evaluation letter for supplemental statements or "No-Change" forms will **not** be issued unless items requiring additional comment by the Board are disclosed.

VIII. EVALUATION OF STATEMENTS OF ECONOMIC INTEREST

(A) *Jurisdiction and Scope.*

- (1) Pursuant to section 5 (b) of the Order, the Board may not accept and cannot evaluate Statements voluntarily or inadvertently submitted by those who are not Public Officials covered under the Order. This includes, but is not limited to, appointees to advisory boards or employees or appointees in branches of State government other than the Executive branch.
- (2) Persons subject to the Order whose compensation from the state increases to an amount in excess of \$40,000 on or after July 1 shall **not** be required to file the statement until the next filing period.

(B) *Review and Evaluation of Statements*

- (1) Board staff shall review each Statement of Economic Interest to determine whether it substantially and materially meets the requirements of the Order. Statements shall be reviewed in light of the official duties, responsibilities, and functions of the filing Public Official. Staff shall not be responsible for verifying the validity of information provided by Public Officials.
- (2) Board staff may request any additional information needed to complete or clarify the statement, and the same shall be provided as quickly as possible. A Public Official may contest the need for such additional information by an appeal to the Board Chair. Such appeal shall be in writing and explain why such information is irrelevant, immaterial, unnecessary, or should otherwise not be provided pursuant to the Order. The Board Chair, in consultation with the Executive Director, shall promptly act on such appeal and provide

written notice of the result to the Public Official. If the Public Official still disputes the need for such additional information, he or she may provide the same under protest and seek further review of the matter before the full Board at its next regularly scheduled meeting. The Board's decision as to whether the additional information is required shall be final

- (3) Upon completion of the review and evaluation process, Board staff shall submit an evaluation letter to the proper officials as required by section 5 (b) of the Order.

*Approved and adopted in open session by the Board of Ethics on the **23rd** day of **August, 2002**.*